

April 7 2010

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA  
Case No. DA 09-0510

STATE OF MONTANA ex rel  
DEPARTMENT OF ENVIRONMENTAL QUALITY

PLAINTIFF/APPELLANT,

v.

BNSF RAILWAY COMPANY,

DEFENDANT/APPELLEE/CROSS-APPELLANT.

FILED

APR 07 2010

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

APPELLEE/CROSS-APPELLANT'S UNOPPOSED MOTION FOR  
EXTENSION OF TIME TO FILE ANSWER BRIEF AND BRIEF ON CROSS-  
APPEAL

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On Appeal from the First Judicial District Court, Lewis and Clark County  
The Honorable Jeffrey M. Sherlock, Presiding  
District Court Cause No. BDV 2004-596


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Appellee/Cross Appellant, BNSF Railway Company, respectfully moves this Court pursuant to Mont. R. App. P. 26(1) for an extension of time to file the Answer Brief and Brief on Cross-Appeal until May 17, 2010. Rule 26(a)(1) provides that "in all cases except those addressed in section (2) of this rule, a party may move for and be granted one 30-day extension of time in which to file a brief required or allowed to be filed under these rules." The Appellee's Answer Brief and Brief on Cross-Appeal, absent the requested extension, would be due on April 15, 2010. With the requested extension, the brief will be due on or before May 17, 2010.

Pursuant to Mont. R. App. P. 26(1), R. Allan Payne, counsel for the Appellants, was contacted regarding this motion and indicated that he did not object to the requested extension. A proposed order is filed herewith.

Dated this 6 day of April, 2010.

BROWNING, KALECZYC, BERRY & HOVEN, P.C.

By  \_\_\_\_\_  
Oliver H. Goe

## CERTIFICATE OF MAILING

I hereby certify that on the 6<sup>th</sup> day of April, 2010, I mailed a true and correct copy of the above and fore going Appellee/Cross-Appellant's Unopposed Motion for Extension of Time to File Answer Brief and Brief on Cross-Appeal, by the United States Postal Services, postage prepaid, addressed to the following counsel of record:

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